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**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

June Durr, an individual and Loyalty
Restaurant & Lounge LLC dba Loyalty
Lounge, an Arizona Limited Liability
Company,

Plaintiffs,

v.

City of Scottsdale, a municipal entity;
Christian Bailey, an individual and acting
under the color of law; Stephen Smith, an
individual and John and/or Jane Does I-X,
individual(s) acting under the color of law,

Defendants.

Case No.

Complaint

(Jury trial requested)

Plaintiffs June Durr and Loyalty Restaurant & Lounge LLC dba Loyalty Lounge,
hereby file their Complaint against Defendants and allege as follows:

1. Plaintiff June Durr (“Durr”) is an individual and at all relevant times was a
resident of Maricopa County, Arizona.

2. Plaintiff Loyalty Restaurant & Lounge LLC dba Loyalty Lounge, is an
Arizona Limited Liability Company doing business in Arizona. Plaintiff Durr is the sole
Member and authorized to represent the interests of said company.

1 3. Defendant City of Scottsdale (“COS”) is a municipal entity within the
2 geographic bounds of Maricopa County, Arizona.

3 4. The Scottsdale Police Department (“SPD”) is and was at all times relevant
4 hereto a City of Scottsdale agency, providing the vehicle through which the City of
5 Scottsdale conducts its business.

6 5. Defendant Christian Bailey (“Bailey”) is an individual and at all relevant
7 times was a resident of Maricopa County, Arizona. Bailey was at all relevant times
8 employed by SPD as a duly appointed and sworn police officer, and was acting in his
9 individual capacity and/or under the color of state law, and within the scope of his
10 employment.

11 6. Defendant Stephen Smith (“Stephen Smith”) is an individual and at all
12 relevant times was a resident of Maricopa County, Arizona. Smith was at all relevant
13 times employed by Scottsdale as a zoning officer, and was acting in his individual
14 capacity and/or under the color of state law, and within the scope of his employment.

15 7. At the time of events relevant herein, the individual Defendants were acting
16 within the course and scope of their employment with City of Scottsdale, a governmental
17 entity.

18 8. Defendants John and/or Jane Does are the unnamed, as-yet unidentified
19 individuals, including but not limited to any and all police officers that were present
20 during the incidents and may be responsible in part for the actions/inactions described
21 herein.

22 9. The acts or omissions giving rise to the claim occurred in Maricopa
23 County, which is located in the District of Arizona. Venue is therefore appropriate.

24 10. This Court has original jurisdiction over all civil actions arising under the
25 Constitution of the United States, as well as laws and treaties of the United States
26 pursuant to 28 U.S.C. § 1331. This action is in part based on alleged civil rights
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1 violations under 42 U.S.C. § 1983 and the U.S. Constitution, and thus, jurisdiction in
2 Arizona District Court is appropriate.

3 11. The Arizona District Court also has supplemental jurisdiction over all other
4 related claims which stem from the same case or controversy under Article III of the
5 United States Constitution. *See* 28 U.S.C. §§ 1331 and 1367.

6 12. Plaintiffs demand a jury trial on all issues triable by a jury.

7 13. At all relevant times, Jeff Walther (“Walther”) was the Chief of Police (or
8 interim) for the City of Scottsdale Police Department (“PPD”) with the ultimate authority
9 to control and supervise and is responsible for the actions of its officers and agents. SPD,
10 through Walther has the authority and responsibility to establish policies, practices,
11 customs, procedures, protocols and training for the SPD and thus the City of Scottsdale.

12 14. The City of Scottsdale and Defendant Bailey were served with a Notice of
13 Claim in this matter pursuant to A.R.S. § 12-821.01 as to State Claims.

14 15. Plaintiff June Durr is a Black female who opened up a business called
15 Loyalty’s Restaurant and Lounge on March 9th, 2021. The business serviced the Old
16 Town community and surrounding areas and was instantly successful because it brought
17 culture to a community that had no establishments that offered opportunities for Black
18 families and friends to gather and enjoy themselves in an environment that welcomed
19 them and accepted them. People of color felt at home as Loyalty’s was a place where the
20 color of your skin did not dictate the type of service you would receive.

21 16. Loyalty’s Restaurant was so successful that in a short period of time, it was
22 named restaurant of the year by a local media outlet, voted on by the customers,
23 approximately 9 months into operation.

24 17. In May of 2021, Plaintiff Durr, was invited to meet with Defendant Bailey
25 as the liquor liaison and Officer Dan Safsten, as the safety officer, both of the Scottsdale
26 Police Department. This meet and greet surprisingly turned into an impromptu liquor
27 inspection at the establishment and multiple officers showed up.
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1 18. Defendant Bailey led this inspection which was the start of the harassment
2 and targeting of this Black, female owned business. The inspection was more about
3 Plaintiff Durr's family including her son JaVon being a "hidden owner," her bank
4 account, finances, deposits, her son's history, her employee contact log, who controlled
5 the operation and other improper, harassing and disparate treatment from other
6 businesses.

7 19. Plaintiff Durr felt very uncomfortable, she felt attacked and contacted her
8 operations managers and her son, all came to the premises or were on the phone as the
9 inspection was midway through. These individuals were contacted because generally
10 they are around for day to day operations when Plaintiff Durr was back and forth to
11 Michigan finishing up her retirement process from her job in Michigan set for July of
12 2021.

13 20. This inspection led to the creation of an unbelievably false report made by
14 Defendant Bailey and possibly other members of his team. He sent this false report to the
15 State Liquor Department. As a result, Plaintiff Durr was subjected to subpoenas of her
16 bank records, probing into her families' businesses, and a false arrest of her son for
17 alleged liquor violations.

18 21. The findings reported from the inspection on the sheet that they filled out
19 was that there was no employee log that was satisfactory according to Defendant Bailey
20 and Mr. Safsten even though there was one on file and a updated emailed copy was sent
21 to them during the time of the inspection. They even tried to get Plaintiff Durr to sign a
22 blank inspection form at the completion proclaiming they would complete the paperwork
23 when they got back to their office. Plaintiff Durr disagreed and demanded that it be
24 completed with their findings noted and she photographed it after she signed it. SPD
25 never signed it and still put no employee log, a false statement.
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1 22. Plaintiff Durr was the sole 100% owner of this business, not her son, a fact
2 that Defendants refused to acknowledge in their attempts to shut down this Black, female
3 owned business before it even was up and running.

4 23. This arrest lead to 10 miscellaneous tickets, all of which were dismissed in
5 court, costing thousands in legal fees.

6 24. Based on this information, the State Liquor Department reviewed the case
7 and after a few months gave a warning and explained to Plaintiff Durr what she needed to
8 do to have staff assist during her absence.

9 25. Defendants' targeting and harassment continued at intervals over the
10 duration of ownership with short breaks in between. Every incident that occurred near
11 the restaurant, Defendants blamed the business. After multiple meetings and efforts to
12 dissolve the ill feelings SPD had with this Black, female owned business, the acts of
13 targeting lightened some but then Defendant Bailey attempted to accuse the restaurant of
14 operating like a bar stating they needed a different liquor license, different permits etc.

15 26. The building had a live entertainment permit attached permitting live
16 entertainment that Defendants even tried to have removed.

17 27. After not receiving the desired results after their first attempt with State
18 Liquor Department, based on a written investigative report from a officer at State Liquor
19 Department, SPD had made multiple other attempts at reporting and making false
20 accusations /complaints about this Black owned business. It was also mentioned that
21 neighboring businesses were complaining because they were losing business due to the
22 overwhelming response that Loyalty's restaurant was receiving. One neighboring
23 business had asked Loyalty's to advertise their restaurant business on their website.

24 28. Plaintiff Durr went around and introduced herself to several neighboring
25 businesses with mixed responses. Any negative incidents in the area were being blamed
26 on Loyalty's by Defendants which then made the other businesses feel uncomfortable.
27 Some were even illegally dumping trash in Plaintiffs' canisters.
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1 29. Plaintiff Durr went to Zoning and spoke to a clerk one day and was told
2 that the SPD had been speaking to the Zoning department about Loyalty's. She went by
3 given the allegations by Defendant Bailey to see if there had been any changes with her
4 entertainment permit, which there was not, and asked for management and left a message.

5 30. Defendant Smith and the owners of the building appeared angry because
6 Loyalty's put up a privacy fence due to the harassment of Scottsdale police just parking
7 in the rear looking in and targeting patrons enjoying themselves and pulling them over
8 after leaving the establishment, harassing them.

9 31. The building owner and Defendant Smith demanded that the fence be
10 removed immediately as it was not authorized by the zoning and permit department the
11 fence had to be removed within a few days or threats for citations was mentioned.
12 Loyalties complied despite the request being done only due to the harassment.

13 32. Defendant Smith began to write citations and noncompliance notices and
14 claims with the State of Arizona and fines to the establishment. He also would send these
15 notices to Plaintiff and the business which would then put them in a default status with
16 the lease.

17 33. After all of this harassment and incomplete and false reporting by the
18 Scottsdale police department to the Arizona Liquor Board, on June 17, 2022, Loyalty
19 Lounge was shut down. Plaintiffs' license was later surrendered due to them being told
20 that the information from the Defendants would result in a revocation of the license and
21 inability to ever obtain a new one. Loyalty's was shut down operations suspended
22 indefinitely based on accusations alleging that this Female Black owned business called
23 Loyalty's and her patrons are running a business that jeopardizes the Public Safety of the
24 community yet there has been no shootings, deaths, injuries etc. INSIDE of Loyalty's or
25 involving any of their staff. Whenever something happened in the area, SPD put a report
26 in the news accusing the restaurant to somehow be the cause resulting in the restaurant
27 ending up in the news reports. There were never any definitive findings that linked
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1 Loyalty's to community incidences even as there were video recordings of some of the
2 incidents claimed such as a shooting across the street. Defendant Bailey was there,
3 unlawfully broke locks, entered the building, broke doors down etc. looking for evidence
4 to link Loyalty's to violence. On that one occasion, patrons were turned away and
5 business delayed opening despite no link to Loyalty's.

6 34. Defendant Christian Bailey was part of that destructive move that was truly
7 embarrassing; patrons were photographing and putting this on social media which made it
8 appear that they had major issues going on after no findings. Plaintiffs had to pay for all
9 the repairs and they opened and continued business as usual yet no one reimbursed them
10 for the thousands spent on those repairs that Defendants caused.

11 35. There were two series of false actions by the Defendants that led to the shut
12 down - the first related to false information regarding an audit as to the percentage of
13 food versus the alcohol served. The second is as to false allegations of violence at the
14 establishment. The Liquor Board relied on these claims to ultimately shut down
15 Plaintiffs' business.

16 36. The Scottsdale zoning department also sent notices of noncompliance to
17 Plaintiffs' landlord that contained false information and filed citations against the owners
18 and individuals based on that false information by Defendant Christian Bailey and
19 Stephen Smith.

20 37. On June 7, 2022 after beginning to reach out for help, Plaintiff Durr
21 contacted the Justice of the peace, Mayor, Senator, and NAACP, making multiple calls
22 crying for help. She was referred to the Internal Affairs Depart from the Justice of the
23 Peace and set up a meeting with "Peter and Mr. Coffee." She even shared a little footage
24 of the harassing actions of the SPD to her, her staff, her family and her patrons, placing
25 Scottsdale directly on notice of the issues. This harassment included harassing customers
26 and staff of Loyalty, checking car doors, looking in car windows, searching for weapons,
27 and other conduct that was based on racial bias towards the Plaintiffs.
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1 38. She was told she would get a follow up regarding her report/complaint but
2 she never heard a word back. After 14 months of failed efforts to receive an approved
3 Public Safety Plan for her establishment, she finally received one, only to be considered
4 in violation by Defendant Bailey within 10 days of approval when he accused the
5 establishment being accused of failing to report an incident that never occurred but
6 reported by an “anonymous person.

7 39. However, the harassment continued and on June 14, 2022, another false
8 report from Defendant Bailey and the SPD was created and sent over to the State Liquor
9 Department. This report alleged that there were violent acts outside of the establishment
10 that involved guns and the establishment did not notify the police.

11 40. Defendant Bailey alleged in the report and stated to the owner that an
12 “innocent bystander” reported this information. Some patrons were denied entry because
13 they wore full face masks during the pandemic, however, staff explained that they could
14 wear masks but not full face masks. They were not willing to comply and were denied
15 entry Defendant Bailey’s report was quite different that he created and submitted to State
16 Liquor which lead to the establishment being shut down the weekend of Juneteenth aka
17 the black 4th of July a holiday that blacks largely celebrated. No major concerns were
18 expressed to the staff of Loyalty’s. Defendant Bailey claimed he was simply gathering
19 information which was followed with more questions the next day, a clear fishing
20 expedition.
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22 41. Ironically, when an officer showed up after the anonymous tip to Loyalty’s
23 the night of the alleged acts of violence, things were very calm and there were no
24 reported concerns by the officer.

25 42. The first hearing on the Zoning citations was dismissed due to an incorrect
26 filing. The second hearing after a refiling was delayed by a claim that Officer Bailey was
27 not available. Plaintiffs assert that these were intentional delays in conjunction with the
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1 landlord who continued to collect rent and use it as a basis to not approve a transfer of the
2 lease.

3 43. Plaintiffs were forced to plead guilty to a zoning violation in order to try
4 and save the business.

5 44. The information related to the alleged violence was provided to the Liquor
6 Board was that on June 11 and 12, 2022, Scottsdale Police arrested three people “leaving
7 Loyalty Lounge” after they were stopped and found to have warrants and be in
8 possession of a firearm. There had been a fight outside the Lounge and the people who
9 had weapons were denied entry. It was also reported that a staff member of Loyalty
10 Lounge was checking a rifle outside.

11 45. Despite no violence occurring inside the establishment, the liquor license
12 was summarily suspended and the business ordered to shut down. The claimed basis for
13 the shutdown was A.R.S. §41-1092.11(b), public safety concern and §4-210 licensing
14 issues resulting from the “concern.”

15 46. The sending of information to the landlord resulted in Plaintiffs being put in
16 “default” with the landlord. That process was also related to the landlord refusing to
17 continue to assess potential buyers for reassignment and an eventual eviction.

18 47. On July 29, Plaintiff Durr made a public records request for the following
19 departmental reports alleged to have been the reason for the suspension and subsequent
20 revocation of the license. Scottsdale Departmental Reports #22-14612, #22-17283, #22-
21 12157, #22-12206, and #22-12215. It took three months to provide the reports.

22 48. The Loyalty Lounge won restaurant of the year yet oddly, and falsely, the
23 claim was that it failed the audit with 9.09% food sales resulting in a violation of the
24 liquor laws. On its face, this claim of a restaurant of such acclaim is impossible. An
25 alleged audit began in March of 2022 and was supposedly completed in May. Plaintiff
26 Durr followed up in June on the results. She then met with Defendant Scottsdale internal
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1 affairs in the police department to address her concerns and Defendant Scottsdale failed
2 to act.

3 49. Emails and questions asked leading up to the failed audit raised red flags.
4 The zoning division through Defendant Stephen Smith wrote false reports and used the
5 Scottsdale Police Department as witnesses to his claims. Plaintiff hired an expert that has
6 audited for liquor boards on an interim bases and works with POS systems. The expert
7 rechecked the numbers and which showed Scottsdale's numbers were wrong yet the
8 Liquor Board refused to adjust their position and refused to give Plaintiff additional time
9 to do a formal response.

10 50. The complaint forms stated Defendant Smith personally inspected the
11 business but when confronted and told he was not seen inspecting or even on premises,
12 he admitted he took information fed to him from SPD.

13 51. Defendant Smith used the information even though he said he was required
14 to state that he personally was the inspector. After being called out, he revised the next
15 complaints to state witnesses reported.

16 52. When it was time to go to court, Plaintiffs learned that Christian Bailey was
17 his witness. Defendant Bailey had submitted false information on two reports he
18 submitted to the Liquor Board regarding the establishment. The report submitted dated
19 June 14, 2022, like an earlier report, was false.

20 53. Defendant Bailey alleged in the June Report that there was a fight at the
21 establishment and weapons were pulled. He claimed threats were made to kill and shoot
22 up the establishment. This information was not true according to staff who was present
23 and other witnesses. Defendant Bailey alleged that the reported information was
24 regarding the customers and their violent acts that supposedly occurred in front of
25 Loyalty staff at the front door and not in the actual establishment. His allegations were
26 based on an "innocent bystander and not anyone from Loyalty's" which the business
27 denies.
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1 54. Masked patrons were specifically denied entry and were upset. Defendant
2 Bailey stated more than one person who was seen leaving Loyalty's refused to stop when
3 directed to do. There was no proof that the person left Loyalty's. There were no names
4 mentioned to the liquor board regarding all of the people allegedly leaving Loyalty's.

5 55. Loyalty's was not the only lounge on the block. There were also public
6 roads. However, there are no Black owned restaurant lounge type businesses with a
7 series 12 liquor license in Old Town Scottsdale to Plaintiff's knowledge.

8 56. Defendants were targeting Loyalty's and did so because Plaintiff Durr is a
9 Black female and police did not want her son around, who is also Black.

10 57. On June 10, Plaintiff Durr client received a verbal audit failure from the
11 agent with a two week deadline and strangely, the agent continued to mention her son
12 when talking to her about the audit despite him having no ownership in the business.

13 58. On June 14, 2022 the report was sent to the State Liquor department by
14 Defendant Bailey alleging violence from Loyalty's customers.

15 59. On June 15, there was message left to inform Plaintiff Durr of the alleged
16 violence at her establishment over the weekend. When she called Defendant Bailey back,
17 he talked around his reason for calling and when she asked him the reason for the call, he
18 assured her that it was one occurrence and she had nothing to worry about.

19 60. On June 15, Plaintiff Durr sent an email to the liquor board and included
20 Defendant Bailey and referenced the allegation and the conversation. Around the same
21 time, there was a phone interview with Plaintiff's son and a yet unknown female officer.

22 61. Plaintiff Durr then spoke with compliance officer and was told she had to
23 surrender her liquor license or have it revoked despite her wanting to present the evidence
24 that the claims by Defendants were false.

25 62. On June 17, just before the doors were set to open, Plaintiffs were told that
26 they could not allow anyone entry other than staff. On June 17, 2022, a suspension of the
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1 license by the Liquor board was made due to false claims by Defendants about violence
2 by customers and staff as well as claimed firearms being present at the facility.

3 63. On June 22, Plaintiff Durr sat with the liquor board and a representative
4 from the attorney general's office. They brought up false information that the values were
5 off and there was missing ending inventory. The missing items were proven to be rung up
6 incorrectly in the POS system but they refused to listen.

7 64. Bob Dorn, the compliance officer, gave deadlines but would not provide
8 any details in writing. As a result, Plaintiff Durr surrendered her liquor license which
9 was based on false information from Defendants. The documents show a date of July 13,
10 2022 with the liquor board as a hearing for the Audit, however, due to false information
11 they were given, the staff threatened Plaintiffs and gave a July 6 deadline to voluntarily
12 surrender the license. They stated that if she did not, her license would be revoked and
13 she would likely not get another opportunity to get licensed again for a minimum of a
14 year. Plaintiffs were also falsely advised that the license would be revoked due to a
15 claimed percentage of alcohol to food sales. These numbers were false.

16 65. When asked the reason for the call from Defendant Bailey, Dorn said he
17 asked were there any questions about the PSP he stated he just wanted to check in etc.
18 His message was referenced that he was also informed that Plaintiff Durr's attorney was
19 on the call and he stated "I don't need to speak to your attorney." Defendants worked
20 with the Department of Liquor to use these two issues to force the surrender of the liquor
21 license and eventual loss of the business.

22 66. Plaintiff Durr was ignored and not given any chance to address the false
23 claims. Her business was shut down by the State Liquor Board due to the false claims by
24 Defendants. The suspension by the liquor board not only was immediate, it stopped
25 liquor sales as well as food sales, the full operation which resulted in lost jobs, relocated
26 staff members, an early retired owner too young for substantial retirement benefits, a
27 relocated family with bills to pay, and left no alternatives for Plaintiffs from these
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1 unlawful actions. The decision to surrender the license was based on the forced shutdown
2 of the entire business and the false claims by the liquor representative claiming there
3 were no defenses based on the claims by Defendants.

4 67. After the Liquor Board meeting on June 17, 2022, Plaintiffs were not
5 permitted to sell food or any non-alcoholic beverages or anything until after surrendering
6 the liquor license on July 6, 2022 causing a large loss in revenue given big Juneteenth
7 Black Holiday Weekend and the July 4 holidays. Plaintiffs had refrigerated items but had
8 no freezer space because they would have been used for those events as they had a large
9 number of reservations, artists, and events planned. According to the State Liquor
10 Department, Plaintiffs were not permitted to sell food from the day the doors were locked
11 on June 17, 2021. They failed to even advise Plaintiffs about non-alcoholic service until
12 inquiries were made by Plaintiffs after the surrender of the license.

13 68. This shutdown caused a large financial loss which was ordered without
14 investigating properly the claims by Defendants.

15 69. As it was clear that the revocation was a done deal, and given the false
16 information from the Defendants resulting in the liquor board not entertaining anything
17 she brought to the table, Plaintiff Durr had to surrender her license to avoid her business
18 being shut down indefinitely as any reopening would be at their discretion.

19 70. Plaintiff Durr then attempted to sell the business and the landlord continued
20 to block the sale so that it could get a new tenant. It is believed that the landlord was
21 working in conjunction with the Defendants.

22 71. Additionally, Defendants kept claiming there was a Public Safety Plan that
23 was not approved, however, for 14 months Defendant Bailey and his agents kept
24 rejecting the submitted plan for false reasons. Plaintiff Durr met with Scottsdale Internal
25 affairs on June 7, 2022 and the Plan was finally approved.
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28 **COUNT ONE**

Federal Civil Rights Claims Under 42 U.S.C. § 1983

(Violation of Fourteenth Amendment Equal Protection- race)

Plaintiff Durr against Defendants Bailey and Smith

72. Plaintiffs hereby incorporate by reference all paragraphs as though fully set forth herein.

73. The equal protection clauses affords Plaintiff Durr a right to be free from racial discrimination. *See, e.g., Washington v. Davis*, 426 U.S. 229, 239-41, 96 S.Ct. 2040, 2047-48, 48 L.Ed.2d 597 (1976).

74. Defendants worked in concert and/or in combination with themselves and/or the landlord to remove a Black business owner from the property.

75. As a direct and proximate result of Defendants' actions, Plaintiff Durr suffered damages as set forth herein.

COUNT TWO

Federal Civil Rights Claims Under 42 U.S.C. § 1983

(Violation of Fourteenth Amendment Equal Protection-gender

Plaintiff Durr against Defendants Bailey and Smith

76. Plaintiffs hereby incorporate by reference the preceding paragraphs as though fully set forth herein.

77. The equal protection clauses affords Plaintiff a right to be free from gender discrimination. *Personnel Administrator of Mass. v. Feeney*, 442 U. S. 256, 274 (1979)

78. Defendants worked in concert and/or in combination with themselves and/or the landlord to remove a female owned business from the property.

79. As a direct and proximate result of Defendants' actions, Plaintiff Durr suffered damages as set forth herein.

COUNT THREE

Monell Federal Civil Rights Claims Under 42 U.S.C. § 1983 (Unconstitutional Policy and Custom; Failure to Supervise & Discipline; Failure to Train; Negligent Hiring)

- Plaintiffs against City of Scottsdale

1 80. Plaintiffs hereby incorporate by reference the preceding paragraphs as
2 though fully set forth herein.

3 81. When a widespread custom of a municipality impacts disproportionately on
4 one gender or race, an equal protection violation arises "only if that impact can be traced
5 to a discriminatory purpose." *See Personnel Admin. of Mass. v. Feeney*, 442 U.S. 256,
6 272, 99 S.Ct. 2282, 2292, 60 L.Ed.2d 870 (1979). The disproportionate impact is only
7 relevant to the extent that it "reflects a discriminatory purpose." *Washington v. Davis*, 426
8 U.S. 229, 239, 96 S.Ct. 2040, 2047, 48 L.Ed.2d 597 (1976).

9 82. Defendant City of Scottsdale, through Wathall and SPD, has either failed to
10 properly hire, supervise, discipline, monitor, terminate and/or train its employees and/or
11 failed to establish policies and procedures that would prevent individuals that were not fit
12 for duty from being hired, employed, employed without supervision and retained as a
13 police officer, within the SPD.

14 83. Defendant City of Scottsdale has either failed to properly hire, supervise,
15 discipline, monitor, terminate and/or train its employees and/or failed to establish policies
16 and procedures that would prevent individuals that were not fit for a zoning enforcement
17 position from being hired, employed, employed without supervision and retained as a
18 zoning officer.

19 84. As such, Defendant COS's policies, procedures, customs, and practices led
20 to Plaintiffs' injuries as Defendant COS's policies, procedures, practices, and customs
21 reflect a deliberate indifference to the Constitutional rights of its inhabitants, including
22 Plaintiffs, as Defendant COS has historically and systemically failed to ensure that its
23 officers will not commit constitutional violations against its citizenry like those
24 committed against Plaintiffs.

25 85. The customs/practices of Defendant City of Scottsdale directly and
26 proximately caused the violation of Plaintiffs' Constitutional rights and other damages as
27 more fully set forth herein.
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1 86. Defendant City of Scottsdale directly and proximately caused the violation
2 of Plaintiffs' Constitutional rights and other damages as more fully set forth herein, with
3 its encouragement, toleration, ratification, and deliberate indifference to the policies, or
4 patterns, practices, and customs, as well as its deliberate indifference to the need for more
5 or different employment screening, training, supervision, investigation, or discipline
6 based on the circumstances contained herein.

7 87. As a direct and proximate result of Defendants' actions and/or inactions,
8 Plaintiffs suffered damages more thoroughly described herein. These actions included
9 ignoring the internal affairs report, failing to properly investigate that report, and failure
10 to adequately supervise and train Defendants Bailey and Smith.

11 **COUNT FOUR**
12 **Arizona Law Claims Gross Negligence**
13 ***All Defendants***

14 88. Plaintiffs hereby incorporate by reference the preceding paragraphs as
15 though fully set forth herein.

16 89. As set forth above, the information given to the Arizona Liquor Board was
17 false. Knowingly giving false testimony can amount to a police officer's "conscious
18 disregard of the law or the rights of others" sufficient to support a claim of gross
19 negligence." *Landeros v. City of Tucson*, 171 Ariz. 474 (App. 1992).

20 90. As a direct and proximate result of Defendants'/Officers actions/inactions,
21 Plaintiffs suffered damages as more thoroughly described herein.

22 **COUNT FIVE**
23 **- Interference with Contract**
24 ***Plaintiffs against all Defendants except Smith***

25 91. Plaintiffs hereby incorporate by reference all paragraphs as though fully set
26 forth herein.

27 92. Plaintiffs had a lease with the existing landlord and were in the process of
28 selling the business, Loyalty.

